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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/930,023 | 08/14/2001 | Brett E. Miller | 42390P12239 | 1940 |
| 8791 | 7590 | 04/05/2004 | EXAMINER | |
| BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR LOS ANGELES, CA 90025 | | | BROWN, VERNAL U | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2635 | 8 |
| DATE MAILED: 04/05/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/930,023 | MILLER ET AL. |
| Examiner | Art Unit | |
| Vernal U Brown | 2635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 January 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4,5,11,15-18,22-28,33-35 and 42-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4,5,11,15-18,22-28,33-35 and 42-59 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 December 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
- 4) Interview Summary (PTO-413) Paper No(s) _____. .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____ .

DETAILED ACTION

This action is responsive to communication filed on January 20, 2004.

Response to Amendment

The examiner has acknowledged the amendment of claims 1, 4, 5, 6, 11, 15-18, 22-24, the cancellation of claims 2-3, 7-10, 12-14, 19-21, 36-41 and the addition of claims 42-59.

Response to Arguments

Applicant's arguments with respect to claims 1, 4-6, 11, 15-18, and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 1/20/2004 have been fully considered but they are not persuasive.

Regarding applicant's argument concerning claims 25, 27, 28, and 33-34, the argued limitation of booting up a computer system is not claimed, the limitation of booting up the electronic device is interpreted as meaning the switching on the electronic device from an inactive state to an active state.

Regarding applicant's argument concerning the reference of Bates, the reference of Bates is relied upon for teaching the reading of a user identification device by reflecting a transmitted signal from the user device (col. 7 lines 6-12).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-5, 11, 18, 42, 45, 47, 48, 51, 53, and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Lopes U.S Patent 6189105.

Regarding claims 1, 11 Lopes teaches an apparatus comprising: a detection circuit to detect whether a predetermine user identification device is within a predetermined proximity of a computer system (col. 3 lines 31-37); and a control circuit coupled with the detection circuit to cause an operating system of the computer system to be in a first normal operatic state when the user identification device is within the predetermined proximity (col. 4 lines 1-7) and to cause the operating system of the computer system to be in an inactive state when the user identification device is not within the predetermined proximity (col. 4 lines 23-39), wherein transition of the operating system from the inactive state to the normal operating state occurs without interaction between the user and the computer system by using wireless communication (col. 3 lines 51-60).

Regarding claim 4, Lopes teaches the inactive state comprises a locked state to deny access to the electronic device when the electronic device is in the second (col. 4 lines 25-34).

Regarding claim 5, Lopes teaches the user identification device (100) comprises a transmitter to transmit wireless signals (col. 6 lines 23-27) and the detector comprises a receiver to receive the wireless signals from the user identification device (col. 6 lines 32-35).

Regarding claim 18, Lopes teaches an article (130) comprising a machine-accessible medium providing access to sequences of instructions that, when executed by one or

more processors, cause the one or more processors to:

determine whether a user identification device is within a predetermined proximity of computer system (col. 4 lines 8-21);
cause the operating system of the computer system to be in a normal operating state when the user identification device is within the predetermined proximity of the computer system (col. 4 lines 1-7);

and cause the operating system of the computer system to be in an inactive state when the user identification device is not within the predetermined proximity of the computer system (col. 4 lines 23-39), wherein transition of the operating system from the inactive state to the normal operating state occurs without interaction between the user and the computer system by using wireless communication (col. 3 lines 51-60).

Regarding claims 42 and 48, Lopes teaches the computer system comprises a desktop computer system (figure 1).

Regarding claims 45 and 51, Lopes teaches the user identification device comprises an identification badge (100) as shown in figure 1.

Regarding claims 47, 53, and 59, Lopes teaches the user identification device identifies an associated user as a member of a group of authorized users (col. 4 lines 25-30).

Claims 25, 27-28, and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulha et al. U.S Patent 5973611.

Regarding claims 25 and 33, Kulha et al. teaches detecting when a predetermined device (14) enters a predetermined region with respect to an electronic device (12); and causing the electronic device to boot up (wake up to full operation mode) in response to the predetermined device entering the predetermined region (col. 4 line 65-col. 5 line 5).

Regarding claims 27-28, Kulha et al. teaches the sequences of instructions (routine) that cause the one or more processors to determine whether the predetermined device is within the predetermined proximity to the electronic device further comprises sequences of instructions that, when executed, cause the one or more processors to transmit a wireless signal (col. 5 lines 6-8); detect whether an acknowledge signal is transmitted by the predetermined device in response to the wireless signal (col. 5 lines 10-14); and determine, from the acknowledge signal, whether the predetermined device is within the predetermined proximity to the electronic device (col. 5 lines 12-13).

Regarding claim 34, Kulha et al. teaches the electronic device comprises a transmitter (26) to transmit wireless signals (col. 3 line 26) and the detector comprises a receiver (30) to receive the wireless signals from the predetermined device (col. 3 lines 34-36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 15-17, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 in view of Bates et al. U.S Patent 6420961.

Regarding claims 6, Lopes teaches detecting the proximity of a person to the computer system by detecting the inference with a transmitted wave (col. 6 lines 48-50) but is silent on teaching the user device comprises a reflective device to reflect the wireless signals. Bates in an art related wireless communication system teaches a reflective device (46) to reflect the wireless signals (col. 7 lines 6-8) which also represents a conventional means of reading a user device.

It would have been obvious to one of ordinary skill in the art for the predetermined device comprises a reflective device to reflect the wireless signal in Lopes as evidenced by Bates et al. because Lopes suggests the user device transmit the user identification signal and Bates et al. teaches a reflective device to reflect the wireless signals which also represents a conventional means of transmitting a signal from a user device.

Regarding claims 15-17 and 22-24, Regarding claims 6, Lopes teaches detecting the proximity of a person to the computer system by detecting the inference with a transmitted wave (col. 6 lines 48-50) but is silent on teaching detecting whether the wireless signal is reflected by the user identification device and determining, from the reflected signal, whether the user identification device is within the predetermined proximity to the computer system. Bates in an art related wireless communication system teaches a reader (26) detecting when an identification device (12) is within proximity by detecting the reflected signal from the device (col. 7 lines 6-

12). Bates also teaches the user device (12) transmits an acknowledgement (response) (col. 7 lines 10-12).

It would have been obvious to one of ordinary skill in the art to detecting whether the wireless signal is reflected by the user identification device and determining, from the reflected signal, whether the user identification device is within the predetermined proximity to the computer system in Lopes as evidenced by Bates because Lopes suggests detecting the proximity of a person to the computer system by detecting the inference with a transmitted wave and Bates teaches detecting when an identification device is within proximity by detecting the reflected signal from the device which is also a conventional practice used to read electronic devices such as tags and transponder.

Claim 26 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulha et al. U.S Patent 5973611 in view of Bates et al. U.S Patent 6420961.

Regarding claims 26 and 35, Kulha et al. teaches the predetermined device is within the predetermined proximity to the electronic device further comprises: transmitting a wireless signal (col. 3 lines 24-26); detecting whether the wireless signal is transmitted by the predetermined device (col. 5 lines 5-10); determining, from the transmitted signal, whether the predetermined device is within the predetermined proximity to the electronic device (col. 5 lines 7-10). Kulha et al. is silent on teaching the predetermined device reflects the response signal. Bates in an art related wireless communication system teaches a reflective device (46) to reflect the wireless signals (col. 7 lines 6-8) which also represents a conventional means of transmitting a response signal.

It would have been obvious to one of ordinary skill in the art for the predetermined device comprises a reflective device to reflect the wireless signal in Kulha et al. as evidenced by Bates et al. because Kulha et al. suggests the predetermined device transmit reply signal and Bates et al. teaches a reflective device to reflect the wireless signals which also represents a conventional means of transmitting a response signal.

Claim 43, 49, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 in view of Atsmon et al. U.S Patent 6607136.

Regarding claim 43, 49, and 55, Lopes teaches a user operating a computer (figure 1) but is silent on teaching the computer system comprises a system within a kiosk. Atsmon et al. in an art related physical presence authentication system teaches a computer system integrated within a kiosk (col. 53 line 63-col.54 line 2).

It would have been obvious to one of ordinary skill in the art for the computer system to be within a kiosk in Lopes as evidenced by Atsmon et al. because Lopes teaches a user operating a computer when the user is proximate to the computer and Atsmon et al. teaches a computer system integrated within a kiosk for controlling the operation of the kiosk system.

Claim 44, 50, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 U.S Patent in view of Cash U.S Patent 4616852.

Regarding claim 44, 50, and 56 Lopes teaches the use of a computer system (figure 1) but is silent on teaching the computer system comprises a teller machine. One skilled in the art recognizes that a teller machine is considered a computer as evidenced by Cash (col. 2 lines 45-47).

It would have been obvious to one of ordinary skill in the art for the computer system to comprise a teller machine in Lopes as evidenced by Cash because Lopes suggests operating a computer when the user is proximate to the computer and teller machines are operated when the user are proximate to the teller machine and one skilled in the art recognizes that a teller machine is considered a computer as evidenced by Cash.

Claim 46, 52, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 U.S Patent 5973611 in view of Jung et al. U.S Patent 6675300.

Regarding claim 46, 52, and 58, Lopes teaches the an identification device (100) but is silent on teaching the user identification device comprises a key fob. Jung et al. in an art relate remote controlled computer teaches the use of a key fob (300) as an identification means for controlling the operation of a computer (col. 6 lines 16-20).

It would have been obvious to one of ordinary skill in the art to have the user identification device comprises a key fob in Lopes as evidenced by Jung et al. because Lopes suggests an identification device use in controlling the operation of the computer and Jung et al. teaches the use of a key fob as an identification means for controlling the operation of a computer.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U Brown whose telephone number is 703-305-3864. The examiner can normally be reached on M-Th, 8:30 AM-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.



Vernal Brown
March 29, 2004

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

